

# **Environmental Justice and Water**

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## **Overview**

All of us are affected by the differential distribution of natural resources and by the fact that modern industrial society tends to generate toxic residue in the productive process. The environmental justice movement focuses on patterns that suggest that people of color and people lower on the economic ladder often bear a disproportionately large share of the toxic outputs of industrial society and often have less access to such amenities of the environment as open space, clean air, and clean water. While there has been debate about how best to explain the differential distribution of wastes, there is little dispute that people of color and of lower socio-economic status often bear the brunt of the effects of toxic waste. (Gauna; Cole & Foster)

An important point in the movement's development was a summit of People of Color held in Washington, D. C. in 1991 that enunciated a series of "Principles of Environmental Justice." The Principles are wide ranging and include calls for protection from the results of "nuclear testing, extraction, production and disposal of toxic/hazardous" wastes. The Principles also argue that all people have the "right to participate as equal partners at every level of decision-making" regarding environmental matters and this includes "needs assessment, planning, implementation, enforcement and evaluation" of environmental policies. The Principles also call for "full compensation and reparations for damages" for people who become victims of environmental injustice. Finally, the Principles assert that all individuals "make personal and consumer choices" that produce as little waste as possible and they call for a reprioritization of "our lifestyles to insure the health of the natural world for present and future generations." (First National People of Color Environmental Leadership Summit)

The EJ movement has focused on the need for all citizens to have full information about the state of the environment in which they exist and the movement has also called for full participation in decision-making by people who will be affected by decisions. The argument here is that people that may be affected by decisions about toxic waste or water allocation or air pollution ought to be able to participate as informed partners in decisions made by organizations that affect the environment.

In the water resources area, EJ focuses on issues of distribution of water, quality of water, and pricing of water. Given the essential nature of water for human survival, EJ advocates argue that all people are entitled access to clean and affordable water. Peter Gleick has developed perhaps the most extensive argument drawing upon such international documents as the Universal Declaration of Human Rights and the Convention on the Rights of the Child to make the case that we are all entitled to water as part of our daily lives (Gleick). In addition, Gleick develops an argument that suggests that the bare minimum we are each entitled to per day is 50 liters per day (13 gal) for personal use (drinking, sanitation, bathing, and food preparation). It is estimated that the current average for the United States is 65 to 78 gals/day, well above the minimum.

EJ advocates would also argue that we ought to have access to at least the minimum necessary at a reasonably low cost. To achieve such a goal would require that all water ought to be metered and that it should be distributed using an increasing block pricing structure. Access to the initial block (analogous to the “life-line” used in electricity markets) would be priced low and as consumption increased above the “life line” amount, the price per unit would increase. In other words, if households wanted to use large amounts of water, say for outside residential use, they would have to pay more for it.

In addition, EJ advocates note that the health of subsistence fishers is frequently threatened by toxic contamination, and rural drinking water systems are often contaminated by heavy metals and agricultural run-off. Low income communities and people of color tend to suffer disproportionately since they often depend on public access to fishing for a large share of the protein in their diets, and they don't have the disposable income to either purchase substitute food or to travel to safer waters. (For one analysis of those who fish for food see West, et. al.)

Similarly, farm workers who work on large irrigated parcels in the Central Valley often depend on the closest water they can find for drinking and washing and that water is often contaminated with chemicals used in food production. There are urban concerns as well in the form of chronic exposure to contaminated floodwaters in low-income areas because of management strategies that favor wealthier neighborhoods, which are often located upstream in watersheds. In addition, in many communities, health concerns exist in many low-income areas due to aging and damaged water infrastructure.

EJ advocates and many others have raised concerns that as privatization is seen as a financial vehicle to solve investment and maintenance problems in various systems, wealthier communities will be served and the poor will be left further behind. There is some historical experience in the Southeastern US that supports this hypothesis. The incidence of water-borne disease in low-income black communities was greatly reduced when public entities assumed the management of the water systems from private companies in the early part of the last century. This reduction in disease in low-income black communities is partly attributed to the differing motivations of private versus public water providers. Private providers are focused on economic considerations that would maximize profit while public water managers are more focused on such political considerations as extending public health, vote maximization, etc. (Troesken) A recent report from South Africa suggests that when officials focus exclusively on economic considerations—in this case “cost recovery”—poorer people are unable to afford water supplied by the municipal water system and are forced to use untreated water from streams and ponds. (Thompson)

Since low-income people tend to depend more on public rights of access to water than private property rights, they are often impacted more directly when public trustees ignore their trust duties. Uneven enforcement of health standards and lack of access to public subsidies for capital improvement for substandard infrastructure have been persistent problems which contribute to the palpable level of environmental injustice which communities are reacting to today.

EJ advocates would also argue that efforts at watershed restoration and protection should begin in those communities most severely affected by watershed degradation and that the communities in those watersheds need to be involved in decision making about restoration and in the actual restoration when possible. Community involvement would not only involve public hearings about the definition of the problem and the analyses of proposed solutions. Community involvement would also involve community-organizing efforts to create an infrastructure that would provide an on-going cadre to monitor progress on restoration and to signal the emergence of new problems.

The recent report by the Environmental Working Group about the presence of perchlorate in lettuce in California raises another important issue about water. (See <http://www.ewg.org/reports/suspectsalads/>.) Water is a substance that moves through the environment in a variety of ways and in a number of forms. Perchlorate that enters the Colorado River near Henderson, Nevada and is extracted in the Imperial area to irrigate lettuce may end up in that lettuce on the shelves of supermarkets in San Francisco and even more distant markets. If we think of perchlorate in this instance as a negative externality, the costs of that externality are borne not just by residents of the Colorado River watershed but others who purchase agricultural products grown in that watershed. Put another way, where water is concerned, it may not only be people of color and poor people who suffer from the effects of toxic wastes but many people far from the original site of pollution.

In 1994, President Bill Clinton signed Executive Order #12898 on Environmental Justice. The goal of this order was to focus Federal attention on the environment and the human health conditions both in minority and in low-income populations. Since that time, a number of federal departments have established environmental justice offices. For example, EPA has had an environmental justice small grant program from 1994 to the present. (See U.S. EPA and [http://www.epa.gov/Region 9/cross\\_pr/ej/](http://www.epa.gov/Region 9/cross_pr/ej/)) The CALFED program currently has an Environmental Justice Subcommittee. (See <http://www.calfed.water.ca.gov/EnvironmentalJustice/EnvironmentalJustice.shtml>)

Some environmental justice advocates locate environmental justice responsibilities in the continuing duty of supervision of public trust resources to ensure use in a manner consistent with purposes of the trust. From colonial times, there has been a concern for assuring public access to navigable waters for fishing and other public uses by all members of the public without regard to economic or political power. Some State Supreme Courts have explicitly recognized environmental justice obligations as part of states' public trust duties to future generations. (See, e.g. *Waiahole Ditch*, 9 P.3d 409 [Hawaii 2000]).

At the regional and local level, a number of NGO's have been established with some concern for environmental justice. For example, a group of Community Organizations and Intermediaries interested in Environmental Justice issues have formed an active coalition called the Environmental Justice Coalition for Water. This coalition was created specifically to introduce a set of voices that have been absent in past statewide water planning efforts in California. The efforts of this group are aimed not so much at

wresting more of a finite supply of water away from others as to make public action better serve all members of the public. The Environmental Justice Coalition for Water will be releasing a document later this summer called a “Blueprint for Environmental Justice and Water.” (See Environmental Justice Coalition for Water at <http://www.ejwatercoalition.org/>) On the international level, a United Nations body recognized water as a human right (need to get more info and a reference).

While this governmental and non-governmental activity is important and has produced some position results, continuing population and economic growth places increasing stresses on our water resources. It is important that we continue a focus on EJ issues both as they affect minority and low-income populations and, given the flow nature of water, the rest of the population as well.

## **Major Recommendations**

To this end, we offer the following recommendations to the Department of Water Resources:

1. DWR should establish an Office of Environmental Justice in Water and take responsibility for assuring that the principles of EJ are considered and implemented in Statewide water planning, in the operations of the State Water Project, and as part of all projects funded or approved by DWR.
2. DWR should also task the Office of Environmental Justice in Water to work with local water districts, water public utilities, and local communities and encourage and assist them in developing EJ programs that focus on water issues.

## **Information Sources**

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